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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 4121 of 2005

Applicant — Nimlal Bhuraji Sonteke Accountant Department of Forest Posted at the Office of Divisional Forest Office Rajnandgaon Division Rajnandgaon (C.G.)

Versus

Non-Applicant

1. State of M.P. through the Secretary Department of Finance Vallabh Bhavan, Bhopal (M.P.)
2. State of M.P. through the Secretary Department of Forest Vallabh Bhavan, Bhopal, (M.P.)
3. Govt. of Chhattisgarh through the Secretary Department of Forest D.K.S. Bhawan, Raipur (C.G.)
4. Principal Chief Conservator of Forest Govt. of Chhattisgarh D.K.S. Bhawan Raipur (C.G.)
5. Divisional forest Officer Rajnandgaon Forest Division Rajnandgaon (C.G.)

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Present: Ms. Sunita Jain, Advocate for the petitioner.
Mr. Sushil Dubey, Government Advocate for State/respondents.

O R D E R

(Passed on 22nd Day of March, 2007)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. The petitioner was posted as Accountant in the Forest Department, Government of Chhattisgarh, at Rajnandgaon. Under the provisions of the Madhya Pradesh Revision of Pay Rules, 1998 which came into force vide notification dated 9.3.1998 with retrospective effect from 1.1.1996 (Annexure A/4). The petitioner along with others were granted special salary of Rs. 250/-. The petitioner was paid the arrears of payment of special pay also. Subsequently, vide order dated 3.2.2001 (Annexure A-1)

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benefits of special salary of Rs. 250/- granted earlier vide notification dated 9.3.1998 (Annexure A/4) was withdrawn.

2. In mechanically manner without giving any opportunity of hearing to the petitioner vide impugned order dated 8.10.2001 (Annexure A/3), the Divisional Forest Officer, Rajnandgaon, forest circle Rajnandgaon directed to recover a sum of Rs. 17,250/- which was paid during the period from 1.1.1996 to 30.9.2001, in 69 installment, at the rate of 250/- per months and further payment of 250/- as special pay was withdrawn.

3. Learned counsel appearing for the petitioner submits that this case is squarely covered by the decision of this Court in Vidyadhar Tiwari Vs. State of Chhattisgarh and others 2006 (1) M.P.H.T. 105 (C.G.), wherein this Court after having considered all the facts, held that no excess payment was made to him. Even otherwise, for the excess payment, if any, made to the petitioner, he was not at fault and the amount received by him might have been used by adjusting himself accordingly treating the same as his salary. At this stage, directing recovery of the alleged excess amount from the pensionary benefits of the petitioner will not be just and proper. It is, even otherwise trite law that any order which visits an employee with civil consequences cannot be passed without applying the principles of natural justice. In this case, no opportunity of hearing was afforded to the petitioner. Thus, the impugned order dated 8.10.2001 (Annexure A/3), is bad and deserved to be quashed.

4. In view of the above, this writ petition is allowed and impugned order dated 8.10.2001 (Annexure A/3) is set aside. The petitioner is entitled to all the benefits flowing from this order. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge